IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 35505 of 2007(B)

PETITIONER:

P.P.SURENDRAN, AGED 47 YEARS,
USHALAYAM, P.O.PAVANOORMOTTA, MAYYIL VIA,
KANNUR DISTRICT, PIN-670 602, (JC-438190P NAIB
SUBEDAR (EX), 9 MADRAS, (ATT WITH 19 KUMAON).

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS:

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1. **THE COMMANDING OFFICER,**
   19TH BATTALION, THE KUMAON REGIMENT,
   C/O.56 APO, MADRAS.

2. **CHIEF OF ARMY STAFF,**
   ARMY HEAD QUARTERS, NEW DELHI.

3. **UNION OF INDIA,**
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   MINISTRY OF DEFENCE, NEW DELHI.

BY SRI.M.A.FAYAZ, ADDL.CGSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 35505 of 2007

Dated this the 30th November, 2007

J U D G M E N T

While serving as Havildar in the Kumaon Regiment, the petitioner was subjected to a court martial and charged for the offence under Section 52 (f) of the Army Act and was dismissed from service vide Exhibit-P4. An appeal preferred against Exhibit P4 was dismissed as per Exhibit-P5 order. Petitioner challenges Exhibits P4 and P5 orders in this writ petition.

2. In my view, challenge against Exhibits P4 dated 21.1.1999 and P5 dated 25.10.2000 is highly belated. Petitioner submits that a representation was submitted by him in 2003 and hence the delay in approaching the Court. Reference is made to Exhibit-P6 which is reply given to him to the lawyer's notice. Remedy of the petitioner against Exhibit-P5, if any, was only to approach this Court. There is no reason why he had not approached this Court within a reasonable time from the issuance of Exhibit-P5 order.

I am of the view that there is delay and negligence on the part of the petitioner in prosecuting the matter. In the circumstances, the writ petition is dismissed.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007